



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200807-0210]

RIN 0648-BJ54

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2020 Recreational Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: This rule sets fishing year 2020 recreational management measures for Gulf of Maine cod and haddock. This action is necessary to respond to updated catch and other scientific information. The measures are intended to ensure the recreational fishery achieves, but does not exceed, fishing year 2020 catch limits.

DATES: This action is effective [*insert date of filing for public inspection in the FEDERAL REGISTER*]. Comments must be received on or before [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2020-0105, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal.
 1. Go to www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2020-0105,

2. Click the “Comment Now!” icon, complete the required fields, and
3. Enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the analyses supporting this rulemaking, including the Framework Adjustment 59 environmental assessment (EA) prepared by the New England Fishery Management Council are available from: Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930.

The supporting documents are also accessible via the Internet at:

<http://www.nefmc.org/management-plans/northeast-multispecies> or

<http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, phone: 978-281-9232; e-mail: *Spencer.Talmage@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The recreational fishery for Gulf of Maine (GOM) cod and haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). The multispecies

fishing year starts on May 1 and runs through April 30 of the following calendar year. The FMP sets sub-annual catch limits (sub-ACL) for the recreational fishery each fishing year for both species. These sub-ACLs are a fixed proportion of the overall catch limit for each stock. The FMP also includes proactive recreational accountability measures (AM) to prevent the recreational sub-ACLs from being exceeded and reactive AMs to correct the cause or mitigate the effects of an overage if one occurs.

The proactive AM provision in the FMP allows the Regional Administrator, in consultation with the New England Fishery Management Council, to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. The provisions authorizing this action can be found in the FMP's implementing regulations at 50 CFR 648.89(f)(3).

The 2020 recreational sub-ACL for GOM cod is 193 metric tons (mt) and 6,210 mt for GOM haddock.

Using the 2020 sub-ACLs and a peer-reviewed bioeconomic model developed by NMFS's Northeast Fisheries Science Center that predicts fishing behavior under different management measures, we estimated 2020 recreational GOM cod and haddock removals under various combinations of minimum sizes, possession limits, and closed seasons. The bioeconomic model considers measures for the two stocks in conjunction because cod are commonly caught while recreational participants are targeting haddock, linking the catch and effort for each stock to the other. Preliminary estimates of GOM cod and haddock catch for fishing year 2019 indicate that the recreational fishery will not exceed the sub-ACL of either stock.

For each of the sets of management measures, 100 simulations of the bioeconomic model were conducted, and the number of simulations which yielded mortality estimates under the sub-ACL was used as an estimate of the probability that set of measures will not result in an overage of the sub-ACL. Several sets of measures considered using the bioeconomic model were rejected because the measures failed to exceed a 50-percent probability of removals remaining under the GOM cod sub-ACL. Two sets of possible measures resulted in model-estimated removals under the sub-ACL greater than 50 percent of the time. These were the status quo measures, Option 1, and an alternative, Option 2, which included the status quo measures and added an April 15 through 30 open season for cod (Table 1).

The bioeconomic model projects that measures for both GOM cod and haddock can be liberalized somewhat without the 2020 recreational fishery's sub-ACLs being exceeded. With any given model, however, there exists some level of uncertainty in the accuracy of model predictions. As in past years, we are using preliminary data from the Marine Recreational Information Program (MRIP) for this fishing year. Incorporation of new waves, or data updates, may result in changes in model estimates. MRIP data can be uncertain and highly variable from year to year. This is the first year in which the new, mail-based Fishing Effort Survey metrics were able to be used directly in the bioeconomic model to predict mortality. This reduced uncertainty relative to last year, which was caused by back-calibration of the MRIP estimates to the old Coastal Household Telephone Survey metrics.

Table 1. Summary of the Measures Analyzed by the Bioeconomic Model

2020 Options	Haddock					Cod				
	Possession Limit	Minimum Size	Open season	Predicted Catch (mt)	% Simulations Under Haddock Sub-ACL	Possession Limit	Minimum Size	Open Season	Predicted Catch (mt)	% Simulations Under Cod sub-ACL
1 (Status Quo)	15	17 inches (43.18 cm)	May 1- February 28, April 15 - 30	1,092	100	1	21 inches (53.34 cm)	September 15 - 30	185	67
2			May - February 28, April 15 - 30	1,094	100			September 15 - 30, April 15 - 30	187	65

The results of the bioeconomic model run were shared with the Council and its Recreational Advisory Panel (RAP) and Groundfish Committee for review. At its January meeting, the Council voted to recommend a set of measures that added an April 1 – 14 season for cod and extend the haddock open season to April 1. The Council expects this recommendation to result in catch of cod that would not exceed the sub-ACL. This was based on an assumption that the estimates for mortality under Option 2 could be used as an upper bound estimate for mortality for their recommendation. The Council recommendation would not allow fishing for cod from April 15 – 30, which was included in the bioeconomic model run for Option 2. A recommendation for an open cod season in that time period was disapproved in 2019 due to our and the public's concern about adverse impacts on spawning cod.

We intended to propose the Council recommendation from January. However, on April 29, 2020, we received a letter from the Council which stated that it planned on revisiting its recommendations at its June meeting to address unexpected disruptions to

the for-hire recreational fishery. These included state restrictions on the operation of for-hire recreational fishing vessels.

At its June Meeting, the Council revised its recommended recreational GOM cod measures for fishing year 2020 to expand the fall open season by two additional weeks, to occur from September 8 through October 7, 2020, for the for-hire recreational fishery only. The open season for GOM cod for private recreational fleet would remain unchanged. The Council intends for this recommendation to allow the for-hire fleet to use the fall season to make up for the loss of access to the fishery in the spring.

As part of its recommendation, the Council noted that travel and other restrictions imposed by states in March and April effectively closed the for-hire fishery. While state restrictions of for-hire fishing have been lifted, limits on the number of people who may gather are still in place, limiting the number of passengers on vessels.

We used Vessel Trip Report (VTR) data to examine changes in activity among party/charter vessels in May and June 2020. These data indicate that the number of weekly party/charter trips and weekly mean number of anglers on party/charter VTRs have been reduced in 2020 in comparison to past years, both region-wide and in the GOM. (Table 2). The data examined in this analysis is limited to trips with a submitted VTR; trips that are missing a VTR submission and/or vessels that do not have a VTR requirement (i.e. vessels without a Federal permit and participating in the state waters fisheries) are not captured by this analysis. As such, while the report is informative of changes in recreational fishing effort in 2020, it does not capture all the recreational for-hire fishing that has occurred in the GOM this year.

Table 2. Number of Trips and Average Number of Anglers reported by Vessel Trip Reports in May and June, 2016 – 2020

Year	Month	Number of Trips	Average Number of Anglers
2016	May	466	17
	June	711	18.2
2017	May	385	16.8
	June	725	18
2018	May	431	16.2
	June	735	17.6
2019	May	430	17.2
	June	665	19.1
2020	May	153	10.5
	June	271	14.4

The private recreational fleet has been allowed to access the GOM haddock fishery during the spring and early summer fishery, and so the lack of access that supports expanding the fall season for the party/charter fleet does not apply to the private recreational fishery.

Based on the analysis using the bioeconomic model and other available information, this rule implements the measures as recommended by the Council at its June meeting, as follows:

- GOM haddock:
 - Possession Limit: 15 fish
 - Minimum Size: 17 inches (43.18 cm)
 - Open Season: May 1 – February 28, April 1 - 30
- GOM cod:
 - Possession Limit: 1 fish
 - Minimum Size: 21 inches (53.34 cm)
 - Open season (Private): September 15 - 30, April 1 - 14

- Open Season (For-Hire) September 8 – October 7, April 1 - 14

Classification

The Assistant Administrator for Fisheries, NOAA (AA) has made a determination that this interim final rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The AA finds that prior notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), would be contrary to the public interest. The Council's revised recommendation for recreational GOM cod and haddock measures at its June meeting prevented NMFS from publishing a proposed rule in time to implement final measures by September 8, 2020, which is the start of the open cod season for party/charter fishing vessels. The revised measures provide opportunities to mitigate adverse economic impacts from lost opportunities to fish in the spring due to state and local health and safety restrictions. The recommended additional weeks of open-season were subject to public comment at several meetings, including the Council's June meeting. The public, including the for-hire fleet, is anticipating an expanded open-season this fall given the public recommendations voted on by the Council at the June meeting. We are accepting additional public comments on this rule. The delay required for comments on these measures prior to their implementation would undermine the benefit intended by these measures. For these reasons, prior notice and the opportunity for public comment, pursuant to authority set forth at U.S.C. 553(b)(B), would be contrary to the public interest.

Similarly, the need to implement these measures in a timely manner to put this interim final rule in place prior to September 8, 2020, constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to establish an effective date less than 30 days after date of publication. The revised measures remove restrictions on fishing. Delay in implementing this rule would prevent party/charter fishing vessels from fishing for GOM cod during the recommended open season that will assist the for-hire recreation fishery adjust to impacts of state restrictions on the for-hire fleet carrying passengers in May and June this year. Plus, the for-hire fleet should benefit from the certainty from the immediate implementation of these measures upon publication. The certainty will provide additional time for the for-hire fleet to prepare for and take advantage of the opportunity to recruit and carry passengers for the recommended additional weeks this fall by enabling earlier advertisement to customers of available trips.

This interim final rule has been determined to be not significant for purposes of Executive Order 12866.

This interim final rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

This interim final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 10, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.89, revise paragraphs (c)(1) and (2) as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(c) * * *

(1) *Private recreational vessels.* Persons aboard private recreational fishing vessels during the open season listed in the column titled “Open Season” in Table 2 to this paragraph (c), may not possess more fish in or from the EEZ than the amount listed in the column titled “Possession Limit” in Table 2 to this paragraph (c).

(i) *Closed season.* Persons aboard private recreational fishing vessels may not possess species, as specified in the column titled “Species” in Table 2 to paragraph (c), in or from the EEZ during that species closed season as specified in the column titled “Closed Season” in Table 2 to paragraph (c).

Table 2 to Paragraph (c)

Stock	Open Season	Possession Limit	Closed Season
GB Cod	All Year	10	N/A
GOM Cod	September 15 - 30 April 1 - 14	1	April 15 - September 14 October 1 – March 31
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1 - February 28 (or 29) April 1 - 30	15	March 1 – March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A

White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See paragraph (c)(3) of this section		
Atlantic Wolffish	CLOSED	No retention	All Year

(ii) [Reserved]

(2) *Charter or Party Boats.* Persons aboard party or charter boats during the open season listed in the column titled “Open Season” in Table 3 to this paragraph (c), may not possess more fish in or from the EEZ than the amount listed in the column titled “Possession Limit” in Table 3 to this paragraph (c).

Table 3 to Paragraph (c)

Species	Open Season	Possession Limit	Closed Season
GB Cod	All Year	10	N/A
GOM Cod	September 8 – October 7 April 1 – 14	1	April 15 - September 7 October 8 – March 31
GB Haddock	All Year	Unlimited	N/A

GOM Haddock	May 1 - February 28 (or 29) April 1 - 30	15	March 1 – March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See Paragraph (c)(3) of this section		
Atlantic Wolffish	CLOSED	No retention	All Year

* * * * *

[FR Doc. 2020-17707 Filed: 8/13/2020 8:45 am; Publication Date: 8/14/2020]